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MAILED

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OFFICE OF PETITIONS

In re Patent No. 6,412,291 :
Issue Date: July 2, 2002 :
Application No. 09/654,406 : **ON PETITION**
Filed: September 5, 2000 :
Attorney Docket No. AIR COMP :

This is a decision on the Maintenance Fee Transmittal filed August 31, 2010, which is being treated as a petition under 37 CFR 1.378(c) to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

A grantable petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks items (1).

With regards to item (1), petitioner filed a Maintenance Fee Transmittal form in regards to the 7 ½ year maintenance fee and surcharge. However since the form was filed outside of the grace period provided in 37 CFR 1.362(e), a statement of unintentional delay is required. 37 CFR 1.378(c) requires a statement that "the delay in payment of the maintenance fee to this patent was unintentional." Accordingly, the above patent cannot be reinstated until such is submitted.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the \$2,480 for the maintenance fee and \$1640 for the surcharge submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-6059.

A handwritten signature in black ink, appearing to read 'A. Kelley', with a long, sweeping horizontal flourish extending to the right.

Alicia Kelley
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/66 Petition to Accept Unintentionally Delayed Payment of Maintenance
 Fee in an Expired Patent (37 CFR 1.378(c))
 Privacy Act Statement